**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.**

**WRIT PETITION NO. 1910 OF 2005 (S/S)**

Sukhpal Singh s/o Late Shri Shangaru Das,
R/o Old Hospital Colony, Room No. 7,
Gurudawara Road, Doiwala,
District Dehradun ..... Petitioner.

Vs.

1. State of Uttaranchal through
   Secretary, Administrative Department,
   Secretariat, Dehradun, Uttaranchal.
2. Principal Secretary, Administrative
   Department, Secretariat Dehradun,
   Uttaranchal.
3. Additional Secretary,
   Administrative Department,
   Secretariat Dehradun,]
   Uttaranchal ..... Respondents.

**December 20,2005**

Sri Promod Belwal, learned counsel for the petitioner.
Sri Paresh Tripathi, Standing Counsel for the State.

**Hon'ble Rajesh Tandon, J.**

Heard Sri Promod Belwal, learned counsel for the petitioner and Sri Paresh Tripathi, learned counsel for the State. Both the learned counsel for the parties have agreed that this writ petition may be disposed of at the admission stage.

2. Briefly stated, the petitioner has prayed for a direction in the nature of Certiorari quashing the process of promotion form Class IV to Class III (Junior Clerk) in the Secretariats Administrative Department, Dehradun, Uttaranchal as well as for a writ of mandamus commanding the respondents to make the promotion of the petitioner from the date when junior was given promoted on the basis of Uttaranchal Government Servants (Criterion for recruitment by Promotion) Rules 2004.

3. According to the case of the petitioner, the petitioner was initially appointed on 30.06.1986 in the class IV post in the Medical, Health and Family Planning Welfare Department at P.H.C. Doiwala, district Dehradun. After creation of Uttaranchal, the petitioner was transferred to the Administrative Department Secretariat, Dehradun., Uttarnchal. The petitioner has claimed the benefit of Rule 4 of the Utttaranchal Government Servants (Criterion for recruitment by Promotion) Rules 2004. Rule 4 reads as under:

> **"Criterion for Recruitment by Promotion –** Recruitment by promotion to the post of Head of Department and to a post just in rank below the Head of Department and to post in any service carrying the pay scale the maximum of which is Rs. 18,300 or above shall be made on the basis of merit and to the rest of the posts in all services to be filed by promotion, including a post where promotion is made from a Non-gazetted post to a Gazetted post or from one service to another service, shall be made on the basis of seniority to the rejection of unfit."

Learned counsel for the petitioner submitted that in an identical case similar controversy arose in Writ Petition No. 78 (S/S) of 2005 – Chaturtha Sreni Rajya Karmchari Sang Vs. State of Uttaranchal and others with regard to promotion from class IV post to class III post. In the said Writ Petition No. 78 of 2005, following directions were given by this Court:

> "For the reasons recorded above, the writ petition is allowed. The order dated 9th November 2004 passed by the Additional Director, Medical Health and Family Welfare, Dehradun by which he has directed the Chief Medical Officers of the various districts to provide one more opportunity for typing test to those candidates who have appeared in the written examination is quashed. The respondents are directed to make promotions

> on the post of Class III for amongst Class IV employees strictly in accordance with the Rules known as "The Uttaranchal Government Servants (Criterion for Recruitment by Promotion) Rules 2004'. No order as to costs."

4. In view of the above, the respondents are directed to consider the promotion of the petitioner on the post of class III from class IV employees strictly in accordance with the Rules known as "the Uttaranchal Government Servants (Criterion for Recruitment by Promotion) Rules 2004'.

5. The writ petition disposed of accordingly.

**(Rajesh Tandon, J.)**

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